

PT 98-102

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

)		
	)	A.H. Docket #	98-PT-05
SACRED HEART ROMAN CATHOLIC)		
CONGREGATION OF MOLINE	)	Docket #	97-81-60
Applicant	)		97-81-61
	)		97-81-62
	)		97-81-63
	)		97-81-64
	)		97-81-65
	)		97-81-66
v.	)	Parcel Index #	6567
	)		6569
	)		5621-A
	)		7702-A
	)		6568
	)		7703
THE DEPARTMENT OF REVENUE	)		6566
OF THE STATE OF ILLINOIS)		
	)	Barbara S. Rowe	
	)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Jonathon C. Fox, Califf & Harper, P.C., for Sacred Heart Roman Catholic Congregation of Moline.

SYNOPSIS:

The hearing in this matter was held at the offices of the Illinois Department of Revenue on April 29, 1998, to determine whether or not Rock Island County Parcel Index Nos. 6567, 6569, 5621-A, 7702-A, 6568, 7703, and 6566 qualified for exemption during the 1997 assessment year. David Mills, General Chairman of the Fund Raising Campaign, and Wayne

Starr, retired general contractor, Construction Manager, and Trustee of Sacred Heart Roman Catholic Congregation of Moline (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcels during the 1997 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether these parcels were used by the applicant, or the applicant was in the process of adapting the parcels for exempt religious school purposes, during the 1997 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned these parcels during all of the 1997 assessment year. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant used or was in the process of adapting the subject parcels for religious school purposes during the 1997 assessment year.

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that Rock Island County Parcel Index Nos. 6567, 6569, 5621-A, 7702-A, 6568, 7703, and 6566 did not qualify for property tax exemption for the 1997 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 11. (Tr. p. 12)

2. On August 15, 1997, the Department received property tax exemption applications from the Rock Island County Board of Review for Permanent Parcel Index Nos. 6567, 6569, 5621-A, 7702-A, 6568, 7703, and 6566. The applicant had submitted the requests, and the board recommended a partial year exemption for the 1996 assessment year. On the date of the board's action, August 13, 1997, the board was sitting for the 1997 assessment year. The Department assigned Docket Nos. 97-81-60, 97-81-61, 97-81-62, 97-81-63, 97-81-64, 97-81-65, and 97-81-66 to the applications. (Dept. Ex. Nos. 2-8)

3. On December 18, 1997, the Department denied the requested exemption applications, finding that the properties were not in exempt use. (Dept. Ex. No. 9)

4. The applicant timely protested the denials of the exemptions and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices at 101 W. Jefferson, Springfield, Illinois, on April 29, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. Docket No. 97-81-60 refers to Parcel Index No. 6567, which the applicant acquired by a warranty deed dated August 26, 1996. The street address of the subject parcel is 1324 – 17th Avenue, Moline, Illinois. The parcel measures 70 X 150. In October and/or November 1996, the applicant razed the building on the subject property. (Dept. Ex. No. 2; Tr. p. 20)

7. On August 30, 1996, the applicant acquired Rock Island Parcel Index No. 6569 by an Executor's Deed. On August 28, 1996, the applicant acquired an interest in the subject parcel by a Quit Claim Deed. The street address of the subject parcel is 1310 – 17th Avenue, Moline, Illinois. The corresponding Docket No. is 97-81-61. The parcel measures 70 X 150. In October and/or November 1996, the applicant razed the building on the property. (Dept. Ex. No. 3; Tr. p. 20)

8. Docket No. 97-81-62 refers to Rock Island Parcel Index No. 5621-A, which the applicant acquired by a warranty deed on October 8, 1996. The street address of the subject parcel is 1444 – 13th Street, Moline, Illinois. The parcel measures 150 X 54.5. The applicant razed the house on the subject property in October and/or November 1996. (Dept. Ex. No. 4; Tr. p. 20)

9. The applicant acquired Rock Island Parcel Index No. 7702-A on August 20, 1996 by a warranty deed. The street address of the subject parcel is 1304 – 17th Avenue, Moline, Illinois. The Docket No. for this parcel is 97-81-63. The parcel is 110 X 67.5. In 1997, the house on the property was being used by the applicant as a fund raising campaign center for the applicant's efforts to construct a new junior high school on six of the subject parcels. The house is also used as a construction office. Once the school building campaign and construction is completed, the applicant plans to raze the building and use the parcel for parking and green space

around the school. (Dept. Ex. No. 5; Applicant's Ex. No. 1(j); Tr. pp. 28, 51-53)

10. Docket No. 97-81-64 corresponds to Rock Island Parcel Index No. 6568 that was acquired by the applicant by a warranty deed dated August 23, 1996. The street address of the subject parcel is 1314 – 17th Avenue, Moline, Illinois. The parcel measures 70 X 150. The applicant razed the building on the subject property in October and/or November 1996. (Dept. Ex. No. 6; Tr. p. 20)

11. The applicant acquired Rock Island Parcel Index No. 7703 by a Warranty Deed dated August 21, 1996. The Department assigned Docket No. 97-81-65 to this parcel. The street address of the subject parcel is 1716 – 13th Street, Moline, Illinois. The parcel measures 40 X 67.5. The applicant razed the building on the subject property in October and/or November 1996. (Dept. Ex. No. 7; Tr. p. 20)

12. The applicant acquired Rock Island Parcel Index No. 6566 on August 22, 1996. Docket No. 97-81-66 was assigned to the parcel. The building on the property was razed in October and/or November 1996. The street address of the subject parcel is 1328 – 17th Avenue, Moline, Illinois. The parcel measures 70 X 150. (Dept. Ex. No. 8; Tr. p. 20)

13. In 1978, the two Moline Catholic Schools representing the three parishes of the area; St. Mary's, Christ the King, and Sacred Heart, merged to create the Seaton Catholic School program. (Applicant's Ex. No. 1; Tr. p. 25)

14. Seaton is a Catholic Elementary School program for students from preschool through eighth grade. There are approximately 800 children in the program. Since 1978, Seaton has utilized two campuses. The main facility is located on the Sacred Heart Campus and has preschool through the fifth grades. Sixth, seventh, and eighth grades are located on the St. Mary's Campus. (Tr. pp. 16, 25)

15. In 1993, the three catholic pastors in Moline wanted to initiate a study as to the feasibility of the continued use of the St. Mary's building. The building was still being used as the junior high school. The building was built sometime between 1922 and 1926. St. Mary's is located a mile to a mile and a half Northwest of the Sacred Heart Elementary School Campus.

(Tr. pp. 16, 24)

16. The study recommended that the existing junior high school building be utilized for no more than five years and that a site committee be formed to aggressively look into alternative sites or rehabilitation efforts at the St. Mary's building. (Applicant's Ex. No. 1(b); Tr. pp. 16-17)

17. On July 10, 1995, the applicant executed the initial contract with an architectural firm. Ten amendments to that contract were necessary to cover revisions to the agreement. (Applicant's Ex. Nos. 1(d)(8), 1(b) (6); Tr. pp. 41-46)

18. The architectural firm was hired to study the St. Mary's building and make recommendations whether the building was sufficient to merit rehabilitation or whether the applicant should construct a new site. The architectural recommendation was that over \$1.1 million would be needed to rehabilitate the building, and that would not address the needs for more classrooms, existing safety and environmental hazards, the problems due to outdated and inefficient dysfunctional designs, and inadequate accommodations for art, music, science, physical education, intramural athletics and the library. The study recommended that the applicant pursue an alternative site. (Applicant's Ex. No. 1; Tr. pp. 17-18,45)

19. With the existing campuses at Sacred Heart and St. Mary's, the applicant found that there were functional problems with administrators and faculty members going back and forth between properties. Two different administrators, duplicative custodial services, and duality of cafeteria services were only a few of the extra problems encountered because of the distance between the campuses and the need for replication of services. (Tr. p. 20, 33)

20. The applicant decided to aggressively pursue an alternative site. Seven or eight different sites were considered. In 1996, the six properties immediately South of the Sacred Heart elementary school building were decided to be the most appropriate area for the new school. (Tr. pp. 18,41-46)

21. The cost of the new facility was set at 3.65 million dollars. The applicant contracted with a professional fund raising corporation in 1996 to conduct a fundraising

feasibility study and capital fundraising program entitled Education 2000 – A New Century School. The fundraising feasibility study was presented to the applicant on November 4, 1996. The results of the study of the parishes and parents involved were that there was a very favorable attitude toward the school, its mission, and the need to proceed with the relocation and construction of the new junior high school. Eighty-Seven percent of those interviewed were supportive of the \$3.65 million needs package for the new school. Over 86% of those responding indicated a probable financial commitment. Only 5% thought the goal unattainable. (Applicant's Ex. No. 1; Tr. p. 19)

22. A concern found by the study was the lack of greenspace surrounding the school. The study suggested that if additional property could be secured at a reasonable cost, it should become a priority in the project. (Applicant's Ex. No. 1)

23. Prior to purchasing the properties in 1996, it was necessary to obtain zoning variances. The applicant applied for the special use permit on May 23, 1996. The applicant met with the city's planning and zoning personnel to obtain the variances between May and June 1996. The special use application request was passed on July 23, 1996 and approved August 6, 1996 pursuant to Council Bill No. 96-149 and General Ordinance No. 96-7-2. (Applicant's Ex. No. 1; Tr. p. 22)

24. Another problem applicant encountered during the purchase of the six properties South of the Sacred Heart Campus was with the utility easement, which ran right through the middle of the proposed school site. The applicant paid the utility company to re-route the line. (Tr. pp. 44-45)

25. In order to make the project work, it was necessary to acquire all six properties to the South of the existing school. The applicant had numerous conversations with the owners of the properties to encourage them to sell prior to the conveyances in August and October 1996. (Tr. p. 22)

26. Regarding the funding of the project, the capital fundraising program was formally launched on April 8, 1997, with a dinner and program in which an announcement was

made that the applicant had already received 30 pledges in the amount of \$1,175,000.00 toward the goal of \$3.65 million. The total of gifts and pledges upon the conclusion of the managing consultation agreement, which terminated on November 30, 1997, was \$3,023,691.00. (Applicant's Ex. No. 1; Tr. p. 23)

27. At the time of the hearing, the applicant had raised \$3.2 million of the \$3.65 million needed. (Tr. p. 23)

28. In January 1997, the applicant applied to the City for permanent vacation of 17th Avenue, the street that runs between six of the subject parcels and the Sacred Heart Campus. The request was denied at the end of March or the first of April 1997. A compromise was reached and the city has agreed to vacate the street during school hours. (Applicant's Ex. No. 1(j); Tr. p. 35)

29. The applicant had a parishioner that was also a trustee who agreed to act as the construction manager of the entire job. The applicant is acting as its own general contractor. The applicant has 27 subcontractors for the building completion. The applicant advertised for bids on the project with a specified closing date. The contracts with the subcontractors were executed during the spring and summer of 1997. (Applicant's Ex. No. 1; (d) (9); Tr. pp. 37-40)

30. In March 1997, the applicant had to have an engineer do test borings of the soil on the six subject parcels to ascertain how deep and where the water table was and to ensure that the soil was able to carry the weight of the proposed school building. (Tr. pp. 37, 40-41)

31. A groundbreaking ceremony was held on September 5, 1997. The basement was dug in September. Since that time, construction has continued and it is anticipated that the school will open in January 1999. (Tr. pp. 19-20, 36, 40)

32. The morning of the hearing, the construction crew was putting a flex core down for the second floor of the entire building. The walls of the second floor were going up. The building at that time was about half completed. (Tr. p. 37)

33. Regarding the parcel located to the North of applicant's school, Parcel Index No. 5621-A, the building on the property was razed in August 1996. A garage was moved on the

parcel and is being used for storage for the elementary school's props and equipment for plays, as well as chairs and tables. The purchase of that property was also a necessary part of the proposal submitted by the applicant to the City regarding the plan to vacate 17th Avenue. The applicant had to address the issue of additional congestion that vacation would cause regarding picking-up and dropping-off students at the school. Parcel Index 5631-A is across 16th Avenue and to the North of applicant's Sacred Heart Campus. The parcel was used for parking on Easter Sunday. The applicant owns two other properties located in the same block that are used also for parking. There is a City supplied crossing guard and traffic light to allow students to cross 16th Avenue safely. (Applicant's Ex. Nos. 1(i), 5; Tr. pp. 47-50)

34. I take administrative notice of the fact that the applicant, either in its own name or in the name of the church, has been granted numerous exemptions by the Department for properties that it owns pursuant to Docket Nos. 85-81-0028, 85-81-58 through 61, 87-81-0028, 92-81-146 and 92-81-147 for the church, areas across from the church used for parking, the schools, and the rectory. (Dept. Ex. No. 2; tr. pp. 30-32)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 ILCS 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

All property used exclusively for religious purposes, or used exclusively for

school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches

Also at issue is the exemption found at 35 **ILCS** 200/15-125, which exempts property from taxation in part as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

The applicant purchased the six properties South of its existing elementary school at the Sacred Heart Campus in 1996. It then immediately razed the majority of the buildings on those properties. Prior to the purchases, the applicant applied for and received a zoning variance, which it needed in order to erect the school and parking on those six parcels. During the taxable year in question, 1997, the applicant had applied and been granted a vacation of the street that runs between the six parcels and the school. Test borings of the soil were taken to ascertain that the properties could bear the weight of the building anticipated to be constructed on the six parcels. Construction of the school itself was begun in 1997.

In the case of Weslin Properties, Inc. v. Department, 157 Ill.App.3d 580 (1987), the Appellate Court held that property which was under development and adaptation for exempt use qualified for exemption. In that case, Weslin Properties purchased a 24.3-acre tract on May 26, 1983, to be developed into an Urgent Care Center, hospital, and related medical facilities. During 1983, Weslin Properties approved a site plan and hired an architect. Then in 1984, construction of the Urgent Care facility began. In 1985, the Urgent Care Center was completed and occupied. The Court held that the Urgent Care facility qualified for exemption during 1983, but that the remainder of the parcel did not qualify, as there had not been sufficient adaptation and development for use of the remainder of said parcel during 1983. The Court in Weslin noted that the parcel there in issue was to be used as a medical campus, which was a complex and costly undertaking, requiring several years to be completed. The facts in Weslin are clearly

similar to the facts here in issue. In this case the applicant demolished six of the seven buildings on the subject parcels in 1996, the year prior to the year at issue. This is not a relatively simple undertaking. I find that the construction of a multi-million dollar junior high school is similar to the construction of a hospital and related medical complex on a 24.3-acre tract.

The applicant herein has asked for a property tax exemption for the 1997 assessment year. The applicant began construction of the building in 1997 after contracting with 27 sub-contractors in that year. The erection of the building also required zoning changes, use variances, the solution of an easement problem, and soil borings, to mention only a few of the activities necessary before the properties could be used for the anticipated construction. I find that the applicant has shown that sufficient adaptation was conducted on the six subject parcels, wherein the junior high school is being built, to qualify for a property tax exemption for the 1997 assessment year. Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, *supra*. In acknowledging the realities of construction of a multi-million junior high school, I find that the applicant has established that sufficient organization and adaptation was ongoing on the six properties across from the Sacred Heart Campus to qualify Rock Island Parcel Index Nos. 6567, 6569, 7702-A, 6568, 7703, and 6566 for an exemption as a religious school in 1997.

Regarding the property to the North of the school, Parcel Index No. 5621-A, the applicant was using the garage moved on the parcel for storage as well as using the property itself for parking. The Appellate Court of Illinois has determined that property owned by a church and used for storage of church records and furniture qualified for a property tax exemption in Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App. 3d 1055 (5th Dist. 1990), leave to appeal denied. I therefore also find that parcel qualifies for a property tax exemption for the 1997 assessment year.

It is therefore recommended that Rock Island Parcel Index Nos. 6567, 6569, 5621-A, 7702-A, 6568, 7703, and 6566 be removed form the tax rolls for the 1997 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge